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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,667	02/14/2002	Eric B. Fleegal	MS1-875US	1705
22801	7590	11/17/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			FOWLKES, ANDRE R	
			ART UNIT	PAPER NUMBER
			2192	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p style="text-align: center;">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/076,667	Applicant(s) FLEEGAL, ERIC B.	
	Examiner Andre R. Fowlkes	Art Unit 2192	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 13-22 and 38-47.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicants arguments have been considered but they are not persuasive.

In the remarks, the applicant has argued substantially that:

- 1) There is no motivation to combine Kuznetsov and Comspec, at p. 9:4-10:13 & 13:10-14.

Examiner's response:

- 1) There is motivation to combine Kuznetsov and Comspec in Kuznetsov and in the knowledge generally available to one of ordinary skill in the art. One of ordinary skill in the art would have wanted the flexibility of converting a recent data encoding format, such as XML, into the format of an existing technology, such as COM, (Kuznetsov, 7:13-16). Additionally, one of ordinary skill in the art would have wanted to convert between different formats to exploit the advantages of the new format with out having to spend the time and resources to create code, in the new format, from the beginning.

In the remarks, the applicant has argued substantially that:

- 2) Kuznetsov in view of Comspec does not disclose transforming each of the plurality of constructs into code for a component object module (COM) application programming interface header file, as recited in claim 13, at p. 11:12-15.

Examiner's response:

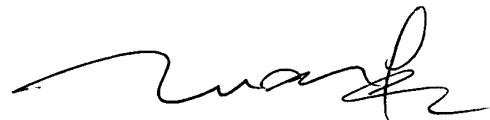
- 2) The examiner disagrees with applicant's characterization of the applied art. The Kuznetsov/Comspec combination discloses transforming each of the plurality of constructs into code for a component object module (COM) application programming interface header file, at Kuznetsov 7:13-16 and Comspec 1:5-7. In order to convert from one format to another, several intricacies of each format must be considered and transformed appropriately. Kuznetsov discloses transforming between several environments and thus entails the intricacies, such as the appropriate mapping of declaration and header files, involved to accurately perform a transformation, at 7:14-16. Comspec discloses the intricacies of COM that need to be considered and transformed for the Kuznetsov/Comspec system to perform a successful conversion, as addressed at p. 3:12-16 of the Final Rejection dated 8/25/05.

In the remarks, the applicant has argued substantially that:

- 3) Kuznetsov in view of Comspec does not disclose checking whether a declare enumeration construct is to be transformed into a series of manifest constants or into a component object model enumeration declaration, as recited in claim 15, at p. 12:11-30 and 13:23-14:3.

Examiner's response:

- 3) The examiner disagrees with applicant's characterization of the applied art. Kuznetsov in view of Comspec does disclose checking whether a declare enumeration construct is to be transformed into a series of manifest constants or into a component object model enumeration declaration, at Comspec 7:1-8:30. Again, to convert from one format to another, several intricacies of each format must be considered and transformed appropriately. Kuznetsov discloses transforming between several environments and thus entails the intricacies, such as the appropriate mapping of declaration and header files, involved to accurately perform a transformation, at 7:14-16. Comspec discloses the intricacies of COM that need to be considered and transformed for the Kuznetsov/Comspec system to perform a successful conversion, as addressed at p. 3:12-16 of the Final Rejection dated 8/25/05.



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SUPERVISORY PATENT EXAMINER